

REMARKS

Claims 1-4 have been canceled. Claims 12-20 have been withdrawn. New claims 21-31 have been added. The new claims merely clarify the disclosed invention and do not add new matter. Claims 5-11 and 22-31 remain in the application.

Claims 1-2 were rejected under 35 U.S.C. §102(b) as being anticipated by Rushford (5,207,262). The Applicant respectfully traverses this rejection.

U.S. Patent No. 5,207,262 to Rushford discloses a rail system in combination with a flexible sheet of material that forms a tonneau cover for an opening, such as for an open truck bed. The frame includes a plurality of side rails, a front rail 6 and a rear rail 8. The front, side and rear rails are joined together by a coupler 12. The rail includes a horizontal base piece 22, a top flange 24 and a vertical web extending between the base piece and a top flange. The web includes an inclined projection 28. One end of a stay is held between the projection 28 and the base piece 22. Each rail also includes an inclined web, which cooperates with portions of web 26 and base 22 to form an enclosed triangular passage 34. Each end of the passage 34 can receive one end of a coupler 10, 12. One end of the base part is folded up to form a retaining lip 36 and top flange 24 carries a projecting member 40 having a free end which faces toward web 30. The web 30, lip 36 and projecting member 40 cooperatively form the channel for slidably retaining one or more fasteners 18. The frame is secured to the structure using clamps 14, or alternatively using a fastener. The system also includes sliding fasteners retained in channels formed in the rail for securing the flexible sheet to the rail. The fastener includes a base part 42 which rests on the web 30 and is retained in place by a lip 36 and projecting member 40. The fastener also includes a button having an enlarged head 44 supported by a post on the base part. The periphery of the cover sheet 50 includes a plurality of receptacles 60 for receiving the head

of the fastener, to secure the sheet to the frame. Rushford '262 does not disclose a cover having a longitudinally extending J-clip that is retained by the frame, as disclosed by the Applicant.

In contradistinction, new claim 21 discloses a tonneau cover assembly for a truck bed having a front wall, left and right sidewalls, and a rear tailgate. The cover assembly includes a frame having a front frame bar, an opposed rear frame bar, a left side frame bar and an opposed right side frame bar. Each of the frame bars includes a base, a vertically oriented inner side extending from the base and an inclined outer side extending between the base and the vertical inner side. The vertical inner side forms an elongated upper channel, an elongated middle channel, and an elongated lower channel. The cover assembly also includes a corner bracket for interconnecting adjacent frame bars, such that each corner bracket includes an arm adapted to be received in the upper channel of adjacent frame bars. The cover assembly further includes a cover secured to the frame. The cover includes a J-clip extending longitudinally along an outer edge of the cover, and the J-clip is fittingly engaged in a longitudinally extending slot formed in an outer side of the frame bar, to secure the cover to said frame. New claims 27 and 28 are similar to claim 21, and include additional features.

Rushford '262 does not disclose or anticipate or otherwise suggest the cover assembly disclosed in claim 21. Rushford merely discloses a frame having an enclosed triangular shape defined by a base portion, a vertically extending wall, and an inclined wall extending between the base and vertically extending wall to form an enclosed triangular passageway, and a corner piece having an end that is disposed in the triangular passageway to secure together adjacent rail members. Rushford '262 does not disclose a frame bar having a base, a vertically oriented inner side, and an inclined outer side wall extending between the base and the vertically oriented wall, and that an outer side of the inner wall forms an elongated upper channel, middle channel and

lower channel, and the corner bracket includes an arm that is received in the upper channel, as disclosed by the Applicant. An end piece secured within an inner enclosed triangular passageway is structurally distinguishable from an end piece secured in an outer facing, open-ended channel.

Rushford '262 merely discloses a fastener slidably disposed in the rail. The fastener includes a button having a base part that is retained by the rail, a post and an enlarged head on the end of the post. The cover includes a receptacle, such as a pocket, for receiving the button head portion of the fastener, as discussed at column 2, lines 30-39. The Applicant's invention is clearly distinguishable, since Rushford '262 does not teach that the fastening means, or J-clip, is part of the cover, and that the J-clip is retained by the frame, as taught by the Applicant. In fact, Rushford teaches away from the cover taught by the Applicant, since a button retained by a slot in the cover is a different type of retention method and thus structurally distinguishable from the spring like retention of a J-clip within a rail, as taught by the Applicant.

Also, the fastener in Rushford '262 is a separate member and is slidably positioned along the rail portion of the frame, whereas the J-clip is not a separate member and is not slidably positionable along the rail portion of the frame. In fact, the J-clip extends longitudinally along the edge of the cover. Again, this is a critical structural distinction between the button fastener taught by Rushford and the J-clip fastener taught by the Applicant.

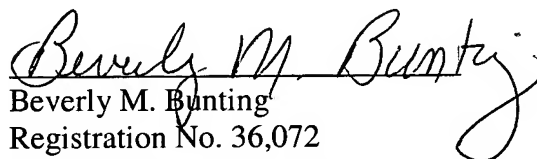
Thus, the Applicant respectfully submits that claim 21, and the claims dependent therefrom, are in a condition for allowance, which allowance is solicited.

Claims 3-11 were rejected under 35 U.S.C. §103(a) as being unpatentable over Rushford (5,207,262) as applied to claim 2 and further in view of Nett (6,042,173) and Melvani (2003/0193209). The Applicant respectfully traverses this rejection. Claim 2 has been canceled,

as well as claims 3-4. Claims 5-11 depend from new claim 21, which Applicant submits is allowable for the reasons set forth above.

Based on the above, Applicant submits that the claims are in condition for allowance, which allowance is respectfully solicited. If the Examiner finds to the contrary, it is respectfully requested that the undersigned in charge of this application be called at the telephone number given below to resolve any remaining issues.

Respectfully submitted,



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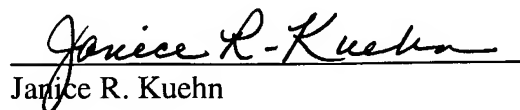
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